

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA, *et al.*,)
)
Plaintiffs,)
)
v.) Civil Action No. 1:23cv0108 (LMB/JFA)
)
GOOGLE LLC,)
)
Defendant.)

ORDER

During the hearing in this matter on September 15, 2023, the court requested that the United States provide the court for *in camera* review a copy of the “Wavemaker” information that was a subject of a previous motion and raised again by defendant in the argument on the motion to compel responses to various discovery requests (Docket no. 406). The United States has provided the court with that information, along with communications surrounding the creation of that information and correspondence between counsel for the United States and defendant in June 2023 concerning the scope of discovery. (Docket no. 443). The United States represents in its memorandum in support of court’s *in camera* review that it does not intend to rely on the estimates provided to the Navy by Wavemaker and that the United States issued a subpoena to Wavemaker for data related to the Navy’s purchases and those documents have been provided to defendant. *Id.* During the hearing on September 15, the United States also represented that the estimates provided by Wavemaker to the Navy that are the subject of this motion were not provided to any expert witness.

The court has reviewed the correspondence in February and March 2023 from and to counsel for the United States relating to the request for, and provision of, the estimates provided

to the Navy by Wavemaker. The documents clearly establish that the information was being sought by counsel for the United States during the pendency of this action and that a response to that specific request was prepared and provided to counsel for the purposes of providing legal advice and assistance in this action. Counsel for the United States requested certain data and provided the format in which that information was to be provided. The estimates provided by Wavemaker complied with counsel's specific requests and did not contain what would normally be considered "raw data" as discussed with the counsel during the hearings relating to this issue.

Having reviewed the information provided by the United States, and accepting its representations that defendant has been provided with Wavemaker data related to the Navy's purchases, it is hereby

ORDERED that defendant's request that the court require the United States to produce the Wavemaker estimates provided to counsel for the United States in response to their request in February 2023 is denied.

Entered this 20th day of September, 2023.

/s/



John F. Anderson
United States Magistrate Judge

John F. Anderson
United States Magistrate Judge

Alexandria, Virginia